IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5591 OF 2005

Santosh Vithoba Khamgaonkar ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. Shreekant V. Gavand for the Applicant.
Shri. K. V. Saste, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 12, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicant and the learned A.P.P. for the State. The offence complained against the Applicant is under sections 452, 357, 307 and 506 of the Indian Penal Code.

2. The learned Advocate appearing for the Applicant submitted that the entire prosecution story becomes doubtful. He invited my attention to notice dated 19th April, 2005 send by the Advocate for the Applicant to the first informant-complainant and her parents. The F.I.R. is filed on 10th August, 2005. He submitted that inview of the facts on record, the Applicant is entitled to be enlarged on bail. He stated that till the conclusion of the trial the Applicant will not enter the village Nijampur where the complainant is residing.

3. The learned A.P.P. opposed the Application. The learned A.P.P. submitted that though substantial

part of investigation is completed, still the Investigating Officer has to complete the investigation and, therefore, the Applicant is not entitled to be enlarged on bail.

4. I have considered the submissions. The notice issued by the Advocate for the Applicant on 19th April, 2005 is very relevant. In the said notice, the Applicant has alleged that the first informant was trying to create many difficulties for the Applicant who is employed as Head Master and who is happily married. There is a letter dated 01st February, 2005 send by the wife of the Applicant to the Chief Executive Officer of the Raigad Zilla Parishad. In the said letter the wife of the Applicant has also made a grievance that she herself and the Applicant have threat from the first informant. Both the letters record that the first informant was alleging that she had fallen in love with the Applicant. From 12th August, 2005 the Applicant is in magisterial custody. This is not a case where any recovery is to be made. Considering the said correspondence and nature of allegations made in the F.I.R. filed on 10th August, 2005, case of the Applicant deserves consideration. The Applicant who is employed as Head Master has stated that he will not enter the village in which the first informant is residing i.e. the village Nijampur, Taluka Mangaon, District Raigad. In

this circumstance, case is made out for enlarging the Applicant on bail.

5. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with **C.R.No.77 of 2005 registered with Mangaon Police Station,** subject to furnishing a personal bond of **Rs.10,000/-** with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicant will not enter the village Nizampur, Taluka Mangaon, District Raigad. This order will be given effect only after the Applicant furnishes the detailed address of his place of residence where he proposes to stay after he is enlarged on bail.

iii) The Bail is granted subject to condition that the Applicant will report to the Mangaon Police Station, District Raigad once in a week till the chargesheet is filed.

iv) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses

and shall not in any manner tamper with the prosecution evidence.

v) The Applicant shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) The parties to act upon an authenticated copy of this order.

JUDGE